IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 692 OF 2005

IN

NOTICE OF MOTION NO. 1917 OF 2005

IN

SUIT NO. 1897 OF 2005

Super Cassette Industries Limited .. Appellants

V/s

People Interactive India Pvt. Ltd
'Mauj' & Ors. .. Respondents

Mr.R.M. Kadam, Advoacte General, with Mr.B.B. Saraf i/b Ranjit Dharmadhikari for the Appellants.

Dr.Virendra V. Tulzapurkar with Mr.V.R. Dhond i/b Lekhs Legal for Respondent No.1.

Mr.Virag V. Tulzapurkar with Mr.V.B. Naik and Mr.K.G. Desai for Respondents Nos.2 and 3.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 14TH SEPTEMBER 2005

P.C. :

1. Heard the learned counsel for the parties.

2. The Respondents Nos.2 and 3 to this Appeal are producers of four cine films. They have entered into an Agreement with Respondent No.1 herein on 8th March 2005 under which they have assigned the telecom rights with

respect to wall papers, screen savers, themes, colour logos, mobile games, ringtones and video of any format etc. to Respondent No.1 herein. It is the case of Respondent No.1 that this Agreement is subsisting though Respondent No.1 came to know that a letter was being circulated in the market dated 25th June 2005 issued by the Respondent No.2 herein stating therein that the Respondent No.1 was to cease all communications and notices to all mobile service providers and that the Appellants herein will have the sole exclusive rights to exploit the movies on mobile space. In view of this development, the suit was filed by them seeking an injunction restraining the Appellants and the Respondents Nos.2 and 3 from taking any steps in furtherance of this so-called termination. The Defendants to the suit were served. None of the Defendants have filed any reply so far. The matter was adjourned before the learned Single Judge for the Defendants to the suit and to the motion to file a reply. Inasmuch as no reply was filed, the learned Single Judge passed the order granting ad-interim injunction in terms of prayer (a) and (b) of the motion on 12th July 2005. It is this order which is under appeal.

3. Mr.Kadam, learned Advocate General for the

Appellants, submitted that the Appellants herein had a prior Agreement of 1st February 2005 and under that Agreement, the appellants were entitled to exploit these very facilities. The original Plaintiffs have very much disputed execution of any such Agreement and this being the position, the Appellants were expected to file their say on oath before the learned Single Judge. The Appellants having not controverted the averments in the plaint and since the rights of the Respondent No.1 under the Agreement were at stake, the learned Single Judge was constrained to pass the ad-interim order.

4. We do not think that there was any error on the part of the learned Single Judge though Mr.Kadam tried to point out that the kind of Agreement which the Appellants had entered into is being entered into by the Appellants with various other parties and there are similar such Agreements entered into in the past. They are all Agreements entered into on payment of Rs.100/- as against the Agreement of Respondent No.1 which is on payment of Rs.15,00,000/- at the outset and on recurring payments to be made from time to time.

5. Mr.Kadam, learned Advocate General, submitted that the Appellants do not have any objection to the Respondent No.1 enjoying this facility, but the

Appellants' rights under their Agreement should not be curbed. Therefore, to test the bonafides of the Appellants, we asked the Appellants whether they are ready to deposit any amount to safeguard the rights of Respondent No.1 in the event the ad-interim injunction was vacated and an injunction was required to be granted at a later point of time. He has declined to make any such commitment.

6. In view of what is stated above, the Appeal is dismissed.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)